REMARKS

I. Introduction

With the addition of claim 22 to 25, claims 11 to 25 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 11 to 14 and 18 Under 35 U.S.C. § 103(a)

Claims 11 to 14 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,694,116 ("Kojima") and U.S. Patent No. 5,627,547 ("Sekine et al."). Applicants respectfully submit that the combination of Kojima and Sekine et al. does not render unpatentable the present claims for the following reasons.

Claim 11 relates to a method for actively assisting a motor vehicle driver in a motor vehicle using at least one control unit and an input and output unit, the control unit configured to access data of sensors and control units relevant to a condition of the motor vehicle and to transmit control commands to the control units and devices configured for external communication. Claim 11 recites that the method includes detecting a critical vehicle condition by the control unit by evaluating the data of the sensors and the control units; generating a list of possible actions for the motor vehicle driver in response to the critical vehicle condition detected in the detecting step; displaying the detected critical vehicle condition and the list of possible actions of the motor vehicle driver on a display unit of the input and output unit; and executing an action selected by the motor vehicle driver using the control unit.

Kojima purport to relate to a driver condition-monitoring apparatus for an automotive vehicle, which monitors the condition of the driver and gives warning depending upon the result of the monitoring to thereby prevent the driver from dozing or driving carelessly. See Abstract, col. 1, lines 8 to 12. The portions referred to in the Office Action merely pertain to voice-synthesized questions directed to the driver with the purpose having the effect of enhancing his vigilance level. *See* col. 5, lines 48 to 60. In particular, the driver is asked whether he wants the windows to be opened, or whether the audio system volume or the temperature inside the vehicle is all right. *See id.* In this regard, it is respectfully submitted that asking whether the window should be open or not, or asking whether the volume of the audio system or the temperature inside the vehicle is at a desired level, does

not constitute detection of critical vehicle conditions, but rather merely detecting the driver's preference for non-critical aspects of the vehicle. Moreover, the driver preferences are evaluated by interrogating the driver himself, and not by evaluating sensor and control unit data. Moreover still, there is no discussion by Kojima regarding a list of possible actions or generation thereof. Accordingly, Kojima fails to disclose, or even suggest, detecting a critical vehicle condition by a control unit by evaluating data of sensors and control units, or generating a list of possible actions in response to the detected critical vehicle condition. As admitted in the Office Action, Kojima also fails to disclose displaying a detected critical vehicle condition and a list of possible actions of the motor vehicle driver on a display unit and output unit.

Sekine et al. purport to relate to a road situation perceiving system for perceiving snow, ice, a person, an animal and other impediments and obstacles existing on a road ahead of a subject vehicle without relying on a driver's visual judgment. *See* Abstract, col. 1, lines 8 to 13. The Office Action refers to alarm means 17, display means 13, and col. 3, lines 48 to 60, which discuss using an infrared camera to detect an abnormal temperature zone within the road area ahead, operating the alarm means 17 in response to the detection, and displaying the abnormal temperature zone on the image of the road area displayed on the display means 13. In this regard, it is respectfully submitted that Sekine et al. do not disclose, or even suggest, that the abnormal temperature zone of the road area is a critical vehicle parameter, or that a list of possible actions for a motor vehicle driver in response to the abnormal temperature zone is generated, or that a list of possible actions of a motor vehicle driver in response to the abnormal temperature zone is displayed on a display unit, or that an action selected by the motor vehicle driver is executed using a control unit.

In view of all of the foregoing, it is respectfully submitted that the combination of Kojima and Sekine et al. does not disclose, or even suggest, all of the features of claim 11 and consequently does not render unpatentable claim 11.

Claim 12 relates to a method for actively assisting a motor vehicle driver in a motor vehicle using at least one control unit and an input and output unit, the control unit configured to access data of comfort control units and to transmit control commands to the comfort control units. Claim 12 recites that the method includes: manually activating the method by the motor vehicle driver; displaying an input prompt on a display unit of the input and output unit relating to which comfort setting should be changed; context-sensitive and preference-sensitive compiling of at least one of operational settings and control elements

relevant to the input prompt on the display unit using the control unit; and executing input control commands.

With respect to the rejection of claim 12, the Office Action refers to the rejection of claim 11 and admits that the Kojima and Sekine et al. do not disclose a manual activation by the motor vehicle driver but asserts that "using the on/off switch to activate the device is old and well known in the art." However, Kojima and Sekine et al. do not in any manner refer to an "on/off" switch, and certainly not in connection with a driver condition monitoring apparatus or road situation perceiving system. Indeed, it is respectfully submitted that neither Kojima nor Sekine et al. disclose, or even suggest, this feature. Moreover, Kojima and Sekine et al. do not provide any motivation as to why such systems should be manually activated. Accordingly, it is respectfully submitted that the combination of Kojima and Sekine et al. does not render unpatentable claim 12.

Claim 13 relates to a method for actively assisting a motor vehicle driver in a motor vehicle using at least one control unit and an input and output unit, the control unit configured to access at least one of an internal database and an external database. Claim 13 recites that the method includes: manually activating the method by the motor vehicle driver; and displaying a list of possible recommendations on a display unit of the input and output unit. Claim 13 recites that the method includes executing a context-sensitive and a preference-sensitive interrogation dialog to ascertain a driver command. Claim 13 further recites that the method includes: displaying possible actions performable in response to the ascertained driver command; and executing an action selected by the motor vehicle driver using the control unit.

As more fully set forth above, it is respectfully submitted that neither Kojima nor Sekine et al. discloses, or even suggests, a manual activation by the motor vehicle driver, and that there is no motivation and suggestion by Kojima or Sekine et al. to do so. It is therefore respectfully submitted that the combination of Kojima and Sekine et al. does not render unpatentable claim 13.

Claim 14 relates to a device for actively assisting a motor vehicle driver in a motor vehicle. Claim 14 recites that the device includes: at least one control unit configured to evaluate detected conditions critical to the motor vehicle; and an input and output unit configured to detect and display conditions critical to the motor vehicle using the control unit, to generate and display a list of possible actions of the motor vehicle driver in response to the detected conditions critical to the motor vehicle as an input option with the condition critical

to the motor vehicle. Claim 14 further recites that the control unit is configured to perform a selected input option.

As more fully set forth above with respect to claim 11, it is respectfully submitted that the combination of Kojima and Sekine et al. does not disclose, or even suggest, an input and output unit configured to detect and display conditions critical to the motor vehicle using a control unit, to generate and display a list of possible actions of a motor vehicle driver in response to detected conditions critical to a motor vehicle as an input option with the condition critical to the motor vehicle. It is therefore respectfully submitted that the combination of Kojima and Sekine et al. does not render unpatentable claim 14.

Claim 18 relates to a device for actively assisting a motor vehicle driver in a vehicle. Claim 18 recites that the device includes: at least one control unit configured to acquire data of comfort control units and to control the comfort control units; and an input and output unit including a display unit configured to display input prompts for selecting a comfort setting using the control unit, the display unit configured to display at least one of operational settings and control elements relative to selected comfort settings in a context-sensitive and preference-sensitive manner. Claim 18 further recites that the control unit is configured to execute input control commands for the at least one of the operational settings and the control elements.

As more fully set forth above with respect to claims 12 and 13, it is respectfully submitted that the combination of Kojima and Sekine et al. does not disclose, or even suggest, a display unit configured to display at least one of operational settings and control elements relative to selected comfort settings in a context-sensitive and preference-sensitive manner. It is therefore respectfully submitted that the combination of Kojima and Sekine et al. does not render unpatentable claim 18.

In view of all of the foregoing, it is respectfully submitted that the combination of Kojima and Sekine et al. does not render unpatentable claims 11 to 14 and 18. Withdrawal of this rejection is therefore respectfully requested.

III. Rejection of Claims 15 and 19 Under 35 U.S.C. § 103(a)

Claims 15 and 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kojima, Sekine et al. and U.S. Patent No. 6,151,539. Applicants respectfully submit that the combination of Kojima, Sekine et al. and U.S. Patent No. 6,151,539 does not render unpatentable the present claims for the following reasons.

Applicants respectfully submit that, under 35 U.S.C. § 103(c), U.S. Patent No. 6,151,539 cannot be used for the purposes of determining obviousness of any claim of the present application under 35 U.S.C. § 103(a). The present application entered the national stage on ***July 1, 2002*** based on PCT International Application No. PCT/EP00/08250, having an international filing date of ***August 24, 2000***. Because the present application was filed subsequent to November 29, 1999, the provisions of 35 U.S.C. § 103(c) as amended by Public Law 106-113, § 1000(a)(9) apply to the present application. Section 103(c), as amended, applies to all utility patent applications filed on or after November 29, 1999 and provides:

> Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

U.S. Patent No. 6,151,539 issued on ***November 21, 2000*** from U.S. Patent Application Serial No. 09/185,291, filed on ***November 3, 1998***. Since the ***November 21, 2000*** date that U.S. Patent No. 6,151,539 issued is ***after*** the ***August 24, 2000*** international filing date of the present application, U.S. Patent No. 6,151,539 qualifies as prior art against the present application, if at all, only under one or more of subsections (e), (f), and (g) of 35 U.S.C. § 102.

The present application and U.S. Patent No. 6,151,539 "were, at the time the invention [of the present application] was made, owned by . . . or subject to an obligation of assignment to" Volkswagen AG. In this regard, by an assignment recorded in the records of the United States Patent and Trademark Office on July 8, 2002, at Reel 013066, Frame 0080, the entire right, title and interest in the present application was assigned to Volkswagen AG. U.S. Patent No. 6,151,539 is assigned on its face to Volkswagen AG. It is therefore respectfully submitted that, under 35 U.S.C. § 103(c), U.S. Patent No. 6,151,539 cannot be used to reject any claim of the present application under 35 U.S.C. § 103(a). It is therefore respectfully submitted that claims 15 and 19 are not rendered unpatentable by the combination of Kojima, Sekine et al. and U.S. Patent No. 6,151,539. Withdrawal of this rejection is therefore respectfully requested.

IV. Rejection of Claims 16, 17, 20 and 21 Under 35 U.S.C. § 103(a)

Claims 16, 17, 20 and 21 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kojima, Sekine et al. and U.S. Patent No. 5,191,532 ("Moroto et al."). Applicants respectfully submit that the combination of Kojima, Sekine et al. and Moroto et al. does not render unpatentable the present claims for the following reasons.

Claims 16 and 17 depend from claim 14 and therefore include all of the features of claim 14. Claims 20 and 21 depend from claim 18 and therefore include all of the features of claim 18. As more fully set forth above, the combination of Kojima and Sekine et al. does not disclose, or even suggest, all of the features of claim 14, from which claims 16 and 17 depend, and the combination of Kojima and Sekine et al. does not disclose, or even suggest, all of the features of claim 18, from which claims 20 and 21 depend. Moroto et al. are not relied upon for disclosing or suggesting the features of claims 14 and 18 not disclosed or suggested by the combination of Kojima and Sekine et al. Indeed, it is respectfully submitted that Moroto et al. do not disclose, or even suggest, the features of claims 14 and 18 not disclosed or suggested by the combination of Kojima and Sekine et al. It is therefore respectfully submitted that the combination of Kojima, Sekine et al. and Moroto et al. does not render unpatentable claims 16 and 17, which depend from claim 14, or claims 20 and 21, which depend from claim 18. Withdrawal of this rejection is therefore respectfully requested.

V. New Claims 22 to 25

New claims 22 to 25 have been added herein. It is respectfully submitted that new claims 22 to 25 do not add any new matter and are fully supported by the present application, including the Specification. Since claims 22 to 24 depend from claim 11, it is respectfully submitted that claims 22 to 24 are patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 11. Since claim 25 depends from claim 12, it is respectfully submitted that claim 25 is patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 12.

VI. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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